

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

BEFORE THE
ILLINOIS COMMERCE COMMISSION

BENCH SESSION
(TRANSPORTATION)

Springfield, Illinois
Wednesday, December 18, 2013

Met, pursuant to notice, at 10:30 A.M. in
Hearing Room A, First Floor, Leland Building, 527
East Capitol Avenue, Springfield, Illinois.

PRESENT:

- MR. DOUGLAS P. SCOTT, Chairman
- MR. JOHN T. COLGAN, Commissioner
- MS. ANN McCABE, Commissioner
- MR. MIGUEL DEL VALLE, Commissioner
- MS. SHERINA MAYE, Commissioner

MIDWEST LITIGATION SERVICES, by
Angela C. Turner, Reporter
CSR #084-004122

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

PROCEEDINGS

CHAIRMAN SCOTT: Is everybody ready in Chicago?

JUDGE DOLAN: We're here, Chairman.

CHAIRMAN SCOTT: Okay. Very good.

Pursuant to the provisions of the Open Meetings Act, I now convene a regularly scheduled Bench Session of the Illinois Commerce Commission. With me in Springfield are Commissioner Colgan, Commissioner McCabe, Commissioner del Valle and Commissioner Maye. And I am Chairman Scott. We have a quorum.

Before moving into the agenda, according to Section 1700.10 of Title 2 of the Administrative Code, this is the time we allow members of the public to address the Commission. Members of the public wishing to address the Commission must notify the Chief Clerk's office at least 24 hours prior to Commission meetings. According to the Chief Clerk's office, we have no requests to speak at today's Bench Session.

Starting first with the Transportation Agenda, we'll begin with the approval of minutes from our December 4th Bench Session. I understand

1 amendments have been forwarded.

2 Is there a motion to amend the minutes?

3 COMMISSIONER COLGAN: So moved.

4 CHAIRMAN SCOTT: Moved by Commissioner
5 Colgan.

6 Is there a second?

7 COMMISSIONER McCABE: Second.

8 CHAIRMAN SCOTT: Second by Commissioner
9 McCabe. Motion has been seconded.

10 All in favor say aye.

11 (Chorus of ayes.)

12 CHAIRMAN SCOTT: Any opposed?

13 (No response.)

14 CHAIRMAN SCOTT: The vote is five to nothing
15 and the amendments are adopted.

16 Is there now a motion to approve the minutes
17 as amended?

18 COMMISSIONER DEL VALLE: So moved.

19 COMMISSIONER COLGAN: So moved.

20 CHAIRMAN SCOTT: Moved by Commissioner del
21 Valle; second by Commissioner Colgan.

22 COMMISSIONER COLGAN: Second.

23 CHAIRMAN SCOTT: All in favor say aye.

24 (Chorus of ayes.)

1 CHAIRMAN SCOTT: Any opposed?

2 (No response.)

3 CHAIRMAN SCOTT: The vote is five to nothing
4 and the minutes from our December 4th Bench Session,
5 as amended, are approved.

6 Item RR-1 is Docket Number T06-0027. This
7 is the County of Will's petition for authorization of
8 funding to construct a safety improvement project at
9 a highway-rail grade crossing in Will County.
10 Petitioners have requested additional time and
11 funding to complete the project.

12 And ALJ Kirkland-Montague recommends entry
13 of a second supplemental Order granting the requested
14 relief.

15 Is there any discussion?

16 (No response.)

17 CHAIRMAN SCOTT: Is there a motion to enter
18 the Order?

19 COMMISSIONER McCABE: So moved.

20 CHAIRMAN SCOTT: Moved by Commissioner
21 McCabe.

22 COMMISSIONER MAYE: Second.

23 CHAIRMAN SCOTT: Second by Commissioner
24 Maye.

1 All in favor say aye.

2 (Chorus of ayes.)

3 CHAIRMAN SCOTT: Any opposed?

4 (No response.)

5 CHAIRMAN SCOTT: The vote is five to nothing
6 and the Order is entered.

7 We will use this five to nothing vote for
8 the remainder of today's Transportation Agenda unless
9 otherwise noted.

10 Items RR-2 through RR-5 can be taken
11 together. These items are petitions seeking
12 authorization and funding for safety improvement
13 projects at highway-rail grade crossings in Illinois.

14 In each case, ALJ Duggan recommends entry of
15 an Order granting the requested relief.

16 Is there any discussion?

17 (No response.)

18 CHAIRMAN SCOTT: Are there any objections?

19 (No response.)

20 CHAIRMAN SCOTT: Hearing none, the Orders
21 are entered.

22 On to Motor Carriers, Item MC-1 is a
23 stipulated settlement agreement concerning alleged
24 violations of the Illinois Commercial Transportation

1 Law by Schnowske and Sons Trucking.

2 Our transportation counsel recommends entry
3 of an Order accepting the settlement agreement.

4 Is there any discussion?

5 (No response.)

6 CHAIRMAN SCOTT: Any objections?

7 (No response.)

8 CHAIRMAN SCOTT: Hearing none, the Order is
9 entered.

10 Items MC-2 and MC-3 can be taken together.
11 These items are applications for household goods
12 property motor carrier authority under the Illinois
13 Commercial Transportation Law.

14 In both cases, the ALJ recommends entry of
15 an Order granting the application.

16 Is there any discussion?

17 (No response.)

18 CHAIRMAN SCOTT: Any objections?

19 (No response.)

20 CHAIRMAN SCOTT: Hearing none, the Orders
21 are entered.

22 We have two administrative matters for
23 consideration today. Item AM-1 is a resolution
24 extending our appreciation and best wishes to

1 Mr. John Blair on his retirement. I'm going to read
2 this first and ask John to come forward.

3 By the Commission, whereas, John J. Blair
4 has been employed in the Rail Safety Section of the
5 Illinois Commerce Commission's Transportation Bureau
6 since October 18, 1982, and he's retiring on
7 December 31, 2013;

8 Whereas, throughout his 31 years of service
9 to the Commission, John displayed his commitment to
10 public safety by his actions and deeds; and whereas,
11 John has consistently demonstrated his interests and
12 concern for the benefit of the Commission's Rail
13 Safety Program by his attitude and the quality of his
14 work;

15 Whereas, John has consistently demonstrated
16 professionalism by his interaction with rail
17 carriers, highway agencies and the public, and his
18 involvement in the development of national policies
19 for the design and installation of highway-rail grade
20 crossing warning systems; and whereas, John's
21 retirement will create a void in the Commission due
22 to the absence of his knowledge and his ability to
23 serve the people of Illinois.

24 Now therefore be it resolved that the

1 Illinois Commerce Commission hereby extends it's
2 deepest appreciation and gratitude to John J. Blair
3 for his dedication and outstanding service to the
4 Commission and conveys its best wishes to him.

5 We need a motion to approve the resolution.

6 COMMISSIONER COLGAN: So moved.

7 CHAIRMAN SCOTT: Is there a second?

8 COMMISSIONER McCABE: Second.

9 CHAIRMAN SCOTT: All in favor say aye.

10 (Chorus of ayes.)

11 CHAIRMAN SCOTT: Any opposed?

12 (No response.)

13 CHAIRMAN SCOTT: The resolution is carried.

14 John, do you want to come forward?

15 (Mr. Blair accepts plaque.)

16 CHAIRMAN SCOTT: Congratulations.

17 MR. BLAIR: Thank you.

18 (Applause.)

19 MR. BLAIR: Thank you. Thanks for the kind
20 words. I wish the best to all my co-workers here in
21 the future. And it's been a quick 31 years. It
22 seems like Steve Hickey and myself started at the
23 same time from the University of Illinois. And I
24 thought I would be here like two years, and now it's

1 31 years. So anyway, thanks for everything.

2 CHAIRMAN SCOTT: Thank you very much. We
3 really appreciate your service.

4 Item AM-2 concerns the City of Urbana, the
5 City of Champaign, and the County of Champaign's
6 Joint Petition seeking authorization to construct a
7 highway bridge in Champaign County. Intervener
8 Preserve Olympian Farmland has filed a Petition for
9 Interlocutory Review of the Hearing Examiner's
10 Ruling.

11 During the course of the proceeding, the ALJ
12 in this case made a ruling that the Commission's
13 jurisdiction and oversight of the construction
14 projects of this nature was limited to whether the
15 improvements were designed properly and how the costs
16 for the improvements would be paid. However, both
17 the statutes and relevant case law indicate that the
18 Commission has a more substantial role in determining
19 the need and the public convenience for a particular
20 project.

21 This assessment is further supported by the
22 Commission's approval each year of a plan and report
23 which lays out, going forward, which projects the
24 Commission will take on, and by the testimony in the

1 case at issue, in which Staff describes an extensive
2 process to prioritize the individual projects.

3 Therefore, testimony as to the necessity of
4 a project may be relevant, and testimony of
5 Dr. Wilson, in this case, may be admitted. In so
6 doing, however, the Commission makes no
7 representation as to the weight of that testimony.

8 The parties had based their pleadings and
9 testimony on the limited jurisdictional
10 interpretation set out by the ALJ, and thus should
11 have the opportunity to revise pleadings and/or
12 testimony in accordance with this Order. The Motion
13 to Dismiss is unnecessary, and would create an
14 unreasonable delay in a case that has already taken
15 two years to reach this point.

16 In addition, in last week's meeting, a
17 representative from IDOT commented to the Commission
18 that time is of the essence. It has come to our
19 attention that outside funding sources may be
20 withdrawn if the project does not move forward. The
21 Commission, while making no representation about the
22 ultimate resolution of this matter, finds that it is
23 in the public interest to moved expeditiously in the
24 event that the project is ultimately approved.

1 At this time, I would make a motion that it
2 would include the following steps in response to the
3 petitions at issue:

4 One, grant the Petition for Interlocutory
5 Review filed by Intervenor Preserve Olympian Farmland
6 with respect to allowing the testimony of Dr. David
7 Wilson.

8 Two, deny the request for Oral Argument.

9 Three, deny the Motion to Dismiss filed by
10 Intervener Preserve Olympian Farmland.

11 Four, grant the parties leave to revise
12 their pleadings and present testimony as deemed
13 necessary by the Administrative Law Judge in
14 accordance with this Order.

15 And five, ask the ALJ, in the interest of
16 the time constraints of which we've heard, to move
17 the matter as expeditiously as possible.

18 So I would make that as a motion.

19 Is there second?

20 COMMISSIONER COLGAN: Second.

21 CHAIRMAN SCOTT: Second by Commissioner
22 Colgan.

23 Any discussion?

24 (No response.)

1 CHAIRMAN SCOTT: All in favor say aye.
2 (Chorus of ayes.)
3 CHAIRMAN SCOTT: Any opposed?
4 (No response.)
5 CHAIRMAN SCOTT: The vote is five to nothing
6 and the Petition for Interlocutory Review is granted
7 in accordance with the previous comments and the
8 Motion for Oral Argument and to dismiss are denied.
9 Mr. Matrisch, is there any further
10 transportation business to come before the Commission
11 today?
12 MR. MATRISCH: No, Chairman. Thank you very
13 much.
14 CHAIRMAN SCOTT: Thank you.
15 Very well. Then that concludes today's
16 Transportation Agenda.
17 TRANSPORTATION SESSION CONCLUDED.
18
19
20
21
22
23
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

CERTIFICATE OF REPORTER

I, Angela C. Turner, a Certified Shorthand Reporter within and for the State of Illinois, do hereby certify that the hearing aforementioned was held on the time and in the place previously described.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

Angela C. Turner
IL CSR #084-004122